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UNITED STATES OF AMERICA

10 UNITED STATES DISTRICT COURT

11 FOR THE CENTRAL DISTRICT OF CALIFORNIA

12 UNITED STATES OF AMERICA,

13 Plaintiff,

14 v.

15 ALEXANDER SMIRNOV,

16 Defendant.

No. 2:24-CR-00091-ODW

STIPULATION REGARDING REQUEST FOR
(1) CONTINUANCE OF TRIAL DATE AND
(2) FINDINGS OF EXCLUDABLE TIME
PERIODS PURSUANT TO SPEEDY TRIAL
ACT

CURRENT TRIAL DATE: 04/23/2024
PROPOSED TRIAL DATE: 12/02/2024

20 Plaintiff United States of America, by and through its counsel of
21 record, the Office of Special Counsel David C. Weiss, and defendant
22 Alexander Smirnov ("defendant"), both individually and by and through
23 his counsel of record, David Z. Chesnoff and Richard A. Schonfeld,
24 hereby stipulate as follows:

25 1. The Indictment in this case was made public on February 15,
26 2024. Defendant was arrested in the District of Nevada on the evening
of February 14, 2024, and he first appeared before a judicial officer
28 on the instant charges the following day, February 15, 2024. Defendant

1 was transported to this District on February 23, 2024 and had his first
2 appearance in this District on February 26, 2024. The Speedy Trial
3 Act, 18 U.S.C. § 3161, originally required that the trial commence on
4 or before April 25, 2024.

5 2. On February 26, 2024, the Court set a trial date of April
6 23, 2024. Dkt. 40 (Criminal Minutes – Arraignment). No date had been
7 set for a pretrial conference or a discovery cut-off.

8 3. Defendant is currently detained pending trial. The parties
9 estimate that the trial in this matter will last approximately Seven
10 judicial days.

11 4. By this stipulation, the parties move to continue the trial
12 date to December 2, 2024. This is the first request for a continuance.

13 5. The parties requests the continuance based upon the following
14 facts, which the parties believe demonstrate good cause to support the
15 appropriate findings under the Speedy Trial Act:

16 a. Defendant is charged with making a false statement to a
17 government agent in violation of 18 U.S.C. § 1001 (Count 1) and causing
18 the creation of a false record in a federal investigation in violation
19 of 18 U.S.C. §§ 1519 & 2 (Count 2). The government has made an initial
20 production of discovery and will continue to make additional
21 productions in the coming weeks. Defendant has requested, and the
22 government will be producing, among other things, electronic data
23 obtained by the government pursuant to search warrants; one of these
24 datasets alone contains more than 4 million files, and another dataset
25 contains more than 2.5 million files. Of particular note, a substantial
26 portion of the electronic data is in languages other than English.
27 Defendant anticipates having to engage a translator to review certain
28 data.

1 b. Defense counsel are presently scheduled to be in trial
2 on the following cases between April 23 and December 2:

- 3 1. Both Counsel Chesnoff and Schonfeld have trial in the case
4 of *United States v. Zafaranchi*, Case Number CR-22-122, in
5 the United States District Court for the Western District of
6 Washington, set to commence on September 16, 2024. The
7 Presiding Judge is the Honorable John C. Coughenour. It is
8 anticipated that said trial will last several weeks as the
9 Defendants are charged with Conspiracy to Commit Wire Fraud,
Wire Fraud, Money Laundering, and Destruction of Records.
The Indictment in this case was returned on August 18, 2022.
There have been two trial continuances. This case has been
set for trial since July 17, 2023, and it is not anticipated
that any continuance will be requested;
- 10 2. Both Counsel Chesnoff and Counsel Schonfeld have trial in
11 the case of *United States v. Halajyan*, Case Number 2:22-cr-
00002-RBF-EJY, in the United States District Court for the
12 District of Nevada, set to commence on October 7, 2024. The
13 Presiding Judge is the Honorable Richard Boulware. It is
14 anticipated that this trial will last one week. The
15 Defendant is charged with Conspiracy to Make a False
16 Statement in Acquisition of Firearms and False Statement in
Acquisition of Firearms. This trial has been continued six
times and it is not anticipated that another continuance will
be sought;
- 17 3. Counsel Schonfeld has trial in the case of *Howard v. Howard*,
18 Case Number D554036, in the California Superior Court, San
19 Diego, set to proceed on June 10, 2024 and June 12, 2024.
This is a contempt of court trial. The presiding Judge is
20 the Honorable Euketa Oliver. This trial has been set since
21 late 2023 and involves child custody. The family court trial
calendars are congested in this Court and therefore it is
22 not anticipated that any continuance will be requested;
- 23 4. Counsel Schonfeld has trial in the case of *Howard v. Howard*,
24 Case Number D554036, in the California Superior Court, San
25 Diego, set to proceed on a different trial issue on June 17,
June 18, and November 7. This is a trial related to
protective orders and child custody. The presiding Judge is
the Honorable Kimberly Parker. The first two days of this
trial have been set since late 2023 and involve child
custody. The family court trial calendars are congested in
this Court and therefore it is not anticipated that any
continuance will be requested;

- 1 5. Counsel Schonfeld has trial in the case of *State of Nevada v. Warrender*, Case Number C-23-376950, in the Eighth Judicial District Court, State of Nevada, set to proceed on June 24, 2024. The presiding Judge is the Honorable Danielle Chio. This is a trial where the Defendant is charged with Attempted Murder with a Deadly Weapon, Assault with a Deadly Weapon, and Discharging a Firearm. This trial will likely last a between one and two weeks. The Indictment in this case was returned on September 13, 2023, and the trial has been continued one time. There is a possibility that this trial will be continued; however, no such dialogue has been engaged in by the parties at this time;
- 2 6. Counsel Schonfeld has trial in the case of *United States v. Cardone*, Case Number 2:23-cr-20598-BAF-DRG, set to proceed on August 13, 2024. The presiding Judge is the Honorable Bernard A. Friedman. This is a trial where the Defendant is charged with Conspiracy to Commit Wire Fraud. This trial will likely last one week. This trial has been continued twice and is likely to proceed as scheduled;
- 3 7. Counsel Schonfeld has trial in the case of *State of Nevada v. Kayarath*, Case Number C-23-374424-1, in the Eighth Judicial District Court, State of Nevada, set to proceed on August 19, 2024. This trial is on a "stack" meaning that it will not necessarily proceed on August 19, 2024, but will proceed within weeks of that date, especially in light of the Cardone trial being scheduled for one week earlier. The presiding Judge is the Honorable Ronald Israel. This is a trial where the Defendant is charged with Attempted Murder with Use of a Deadly Weapon, Battery Resulting in Substantial Bodily Harm, Assault with a Deadly Weapon, Discharging a Firearm, and Possession of a Firearm by a Prohibited Person, Trafficking in Controlled Substance, and Possession of a Controlled Substance with Intent to Sell. This trial will likely last more than one week. The Indictment in this case was returned on June 2, 2023, and the trial has been continued one time. The Defendant is in custody and it is difficult to anticipate if this trial will be continued. The Parties have not engaged in any dialogue regarding a trial continuance; however, they have requested a judicial settlement conference;
- 4 8. Counsel Schonfeld has trial in the case of *United States Securities Exchange Commission v. Collector's Coffee, Inc. et al*, Case Number 19-cv-04355, in the United States District Court for the Southern District of New York, set to proceed on October 21, 2024. The Presiding Judge is the Honorable Victor Marrero. In this case Counsel Schonfeld represents

the intervenor Plaintiffs against the Defendants and Intervenor Defendants related to a property dispute of significant value. The case is complex, given the parties involved, the intervenor nature of the trial, and the history of the litigation. Summary Judgment proceedings have concluded related to the Intervenor claims, the SEC trial concluded, and the Court has set the Intervenor case for trial. This trial will likely last two weeks. Counsel Schonfeld on behalf of his three Intervenor Plaintiff clients requested an October trial date by way of pleading on February 9, 2024. Accordingly, absent some unanticipated event, Counsel Schonfeld will not be seeking a continuance of this trial. The Intervenor Complaint was filed on September 9, 2019.

c. In light of the foregoing, counsel for defendant also represent that additional time is necessary to confer with defendant, conduct and complete an independent investigation of the case, conduct and complete additional legal research including for potential pre-trial motions, review the discovery and potential evidence in the case, and prepare for trial in the event that a pretrial resolution does not occur. Defense counsel represent that failure to grant the continuance would deny them reasonable time necessary for effective preparation, taking into account the exercise of due diligence.

d. In addition to the above, the government has invoked the Classified Information Procedures Act ("CIPA"), apprising the Court that it "need[s] to bring to the Court's attention certain discovery issues or other matters relating to classified material." Dkt. 48. As part of that process, defense counsel are working with the Court-appointed Classified Information Security Officer ("CISO") to obtain the necessary security clearances. Furthermore, considering the CIPA-related issues that may arise in this case, the government has developed

1 what it believes is a reasonable schedule to accommodate CIPA
2 litigation.

3 e. Defendant believes that failure to grant the continuance
4 will deny him continuity of counsel and adequate representation.

5 f. The government does not object to the continuance.

6 g. The requested continuance is not based on congestion of
7 the Court's calendar, lack of diligent preparation on the part of the
8 attorney for the government or the defense, or failure on the part of
9 the attorney for the Government to obtain available witnesses.

10 6. The parties propose the following additional briefing and
11 hearing dates:

12 a. Briefing:

13 i. Government's Initial CIPA Section 4 filing: **June**
14 **24, 2024.**

15 ii. Defendant's CIPA Section 5 notice: **July 29, 2024**
16 **or no later than two weeks after the Court's ruling on the Government's**
17 **CIPA Section 4 filing (whichever is later).**

18 iii. Defendant's Motions: **August 19, 2024.¹**

19 iv. Government's Objections to Defendant's CIPA
20 Section 5 & government's CIPA Section 6(a) filing: **Three weeks after**
21 **Defendant's CIPA Section 5 notice.**

22 v. Defendant's Reply in CIPA Section 5 and Response
23 to government's CIPA Section 6(a): **Two weeks after government's CIPA**
24 **Section 6 filing.**

25
26
27 ¹ Should the government disclose new information to Defendant
28 after the date Defendant's motions are due, Defendant may seek leave
of Court to file additional motions based on the newly provided
information.

1 vi. Government's Response to Defendant's Motions:

2 **September 16, 2024.**

3 vii. Defendant's Reply to Government's Response:

4 **September 30, 2024.**

5 viii. CIPA Section 6(c) Filings: **TBD - if**

6 **necessary.**

7 ix. Motions *in Limine*: **November 1, 2024.**

8 x. Responses to Motions *in Limine*: **November 15, 2024.**

9 xi. Joint Proposed Jury Instructions and Verdict Form,

10 Joint Statement of the Case & Proposed Voir Dire: **November 18, 2024.**

11 b. Hearing Schedule:

12 i. CIPA Section 4 Hearing: **TBD - if necessary.**

13 ii. CIPA Section 6 Hearing: **TBD (October, 2024).**

14 iii. Hearing on Defendant's Motions: **TBD (October,**
15 **2024).**

16 iv. Pretrial Conference & Hearing on Motions *in Limine*
17 (if necessary): **November 25, 2024.**

18 7. For purposes of computing the date under the Speedy Trial
19 Act by which defendant's trial must commence, the parties agree that
20 the time period of April 12, 2024 to December 2, 2024, inclusive,
21 should be excluded pursuant to 18 U.S.C. §§ 3161(h)(7)(A), (h)(7)(B)(i)
22 and (h)(7)(B)(iv), because the delay results from a continuance granted
23 by the Court at defendant's request, without government objection, on
24 the basis of the Court's finding that: (i) the ends of justice served
25 by the continuance outweigh the best interest of the public and
26 defendant in a speedy trial; (ii) failure to grant the continuance
27 would be likely to make a continuation of the proceeding impossible,
28 or result in a miscarriage of justice; and (iii) failure to grant the

1 continuance would unreasonably deny defendant continuity of counsel
2 and would deny defense counsel the reasonable time necessary for
3 effective preparation, taking into account the exercise of due
4 diligence.

5 8. In addition, the parties agree that the time period of
6 February 15, 2024 to February 26, 2024, inclusive, should be excluded
7 pursuant to 18 U.S.C. §§ 3161(h)(E) & (F), because it constitutes a
8 delay "resulting from any proceeding relating to the transfer of a case
9 or the removal of any defendant from another district under the Federal
10 Rules of Criminal Procedure" and "resulting from transportation of any
11 defendant from another district."

12 9. Lastly, the parties agree that the time period of March 15,
13 2024 to March 19, 2024, inclusive, should be excluded pursuant to 18
14 U.S.C. § 3161(h)(1)(D), because it constitutes a delay resulting from
15 a pretrial motion, from the filing of the motion through the prompt
16 resolution of the motion.

17 10. Nothing in this stipulation shall preclude a finding that
18 other provisions of the Speedy Trial Act dictate that additional time
19 periods be excluded from the period within which trial must commence.
20 Moreover, the same provisions and/or other provisions of the Speedy
21 Trial Act may in the future authorize the exclusion of additional time
22 periods from the period within which trial must commence.

23 IT IS SO STIPULATED.

1 Dated: April 12, 2024

Respectfully submitted,

2 DAVID C. WEISS
3 Special Counsel

4 LEO J. WISE
5 Principal Senior Assistant Special
6 Counsel

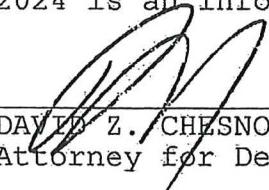
7 DEREK E. HINES
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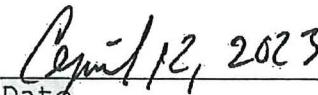
9 SEAN F. MULRYNE
10 Assistant Special Counsel

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12 CHRISTOPHER M. RIGALI
13 Assistant Special Counsel

14 Attorneys for Plaintiff
15 UNITED STATES OF AMERICA

16 I am defendant Alexander Smirnov's attorney. I have carefully
17 discussed every part of this stipulation and the continuance of the
18 trial date with my client. I have fully informed my client of his
19 Speedy Trial rights. To my knowledge, my client understands those
rights and agrees to waive them. I believe that my client's decision
to give up the right to be brought to trial earlier than December 2,
2024 is an informed and voluntary one.

21 
22 DAVID Z. CHESNOFF, ESQ.
23 Attorney for Defendant

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25 Date
26
27
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